



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 9

COPY MAILED

DEC 13 2000

MORRISON & FOERSTER
775 PAGE MILL ROAD
PALO ALTO CA 94304-1018

In re Application of
Allen et al.
Application No. 09/289,576
Filed: April 9, 1999
Attorney Docket No. 311772000600

**OFFICE OF PETITIONS
A/C PATENTS**
DECISION GRANTING PETITION

This is a decision on the renewed petition under 37 CFR 1.10(d), filed November 23, 1999, requesting that the above-identified application be accorded a filing date of April 9, 1999, rather than the presently accorded filing date of April 10, 1999.

Applicants filed a petition for corrected filing date under 37 CFR 1.10(d) on August 30, 1999. This petition was dismissed on September 24, 1999 because the date on the Express Mail label EM056845428US was the date listed on the filing receipt. The deciding official found no evidence from the United States Postal Service (USPS) that an error occurred.¹

With the instant petition, applicants contend that the above-identified application was deposited with the USPS on April 9, 1999 when an employee of the USPS picked up the package containing the application papers at petitioners' attorney's office. In support of this contention, petitioners provide a **legible** copy of the USPS Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post which shows that a parcel bearing Express Mail Receipt No. EM056845428US was picked up by the USPS on April 9, 1999. The USPS Pickup Service Statement is signed by an employee of the USPS. The original application papers located in the official file bear the same Express Mail number as those transcribed on the USPS Pickup Service Statement. Based upon the date on the USPS Pickup Service Statement, petitioners argue that the USPS entered April 10, 1999 in the "date-in" box on the Express Mail Label in error and that the actual date of deposit for this application is April 9, 1999.

The Office finds the date entered on the USPS Pickup Service Statement to be persuasive evidence that this application was deposited with the USPS on April 9, 1999 and that the USPS incorrectly entered April 10, 1999 on the Express Mail Receipt.

Accordingly, the petition is **granted**.


No fee is associated with this petition.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **April 9, 1999**.

¹ A review of the August 30, 1999 petition reveals that the enclosed photocopy of the USPS Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post is illegible.

Thereafter, the application will be returned to Examining Group 1600 for examination in due course.

Telephone inquiries specific to this matter should be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

 For

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy